

21 C.J.S. Courts § 125

Corpus Juris Secundum | May 2023 Update

Courts

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III. Creation and Constitution; Officers of Courts

B. Nonjudicial Officers and Employees Generally; Interpreters

2. Probation Officers

§ 125. Probation officers; generally

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Generally, courts have the authority to appoint probation officers who are statutorily mandated to perform any duty that the court may designate.

A probation officer is a court assistant¹ or officer,² who exercises judicial functions,³ and is an employee⁴ or representative⁵ of the judicial branch of government. Probation officers are not law enforcement officers.⁶

The appointment of a probation officer is a judicial function,⁷ which may not be delegated to another official or body, such as a county board.⁸ Hence, the appointment of a probation officer, usually under statutory authority, is ordinarily made by the court.⁹

Probation officers are subject to the authority of the court¹⁰ and are statutorily mandated to perform any duty that the court may designate.¹¹ Thus, probation officers are subject to the court's administrative directives promulgated in accordance with its plenary constitutional authority.¹² Probation officers must avoid any perception of partisanship in conducting court business.¹³

Eligibility.

To be eligible to be a probation officer, an appointee must possess the qualifications required by statute.¹⁴ However, the determination of the character and qualifications of a proposed appointee usually is a matter within the discretion of the appointing court.¹⁵

CUMULATIVE SUPPLEMENT

Cases:

Probation officers' actual expenses necessarily incurred in the performance of their duties, within meaning of statute providing that counties or cities are responsible for paying their probation officers' actual expenses necessarily incurred in performance of their duties, include the legal costs of defending probation officers who are sued for acts committed while serving in their official capacities. [Ind. Code Ann. § 11-13-1-1\(c\)](#). [Lake County Board of Commissioners v. State](#), 170 N.E.3d 1104 (Ind. Ct. App. 2021).

[END OF SUPPLEMENT]

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Footnotes

- 1 [Cal.—Nicholl v. Koster](#), 157 Cal. 416, 108 P. 302 (1910).
- 2 [U.S.—U.S. v. Reyes](#), 283 F.3d 446 (2d Cir. 2002).
- 3 [Ill.—Witter v. Cook County Com'rs](#), 256 Ill. 616, 100 N.E. 148 (1912).
- 4 [Mass.—Massachusetts Probation Ass'n v. Commissioner of Administration](#), 370 Mass. 651, 352 N.E.2d 684 (1976).

At-will employee

- U.S.—*Montgomery v. Stefaniak*, 410 F.3d 933 (7th Cir. 2005).
- 5 Conn.—*State v. Gaymon*, 96 Conn. App. 244, 899 A.2d 715 (2006).
- 6 U.S.—*Trask v. Franco*, 446 F.3d 1036, 64 Fed. R. Serv. 3d 781 (10th Cir. 2006).
- 7 Mass.—*Catheron v. Suffolk County*, 227 Mass. 598, 116 N.E. 885 (1917).
- 8 Ill.—*Witter v. Cook County Com'rs*, 256 Ill. 616, 100 N.E. 148 (1912).
- 9 Minn.—*Matter of Johnson*, 358 N.W.2d 469 (Minn. Ct. App. 1984).
- 10 U.S.—*Laskowski v. Mears*, 600 F. Supp. 1568 (N.D. Ind. 1985).
- N.J.—*In re P.L. 2001, Chapter 362*, 186 N.J. 368, 895 A.2d 1128 (2006).
- 11 U.S.—*Yahweh v. U.S. Parole Com'n*, 428 F. Supp. 2d 1293 (S.D. Fla. 2006).
- 12 N.J.—*Williams v. State*, 375 N.J. Super. 485, 868 A.2d 1034 (App. Div. 2005), judgment *aff'd*, 186 N.J. 368, 895 A.2d 1128 (2006).
- 13 N.J.—*In re P.L. 2001, Chapter 362*, 186 N.J. 368, 895 A.2d 1128 (2006).
- 14 U.S.—*Cabell v. Chavez-Salido*, 454 U.S. 432, 102 S. Ct. 735, 70 L. Ed. 2d 677 (1982) (citizenship).
- 15 Mass.—*Anzalone v. Administrative Office of Trial Court*, 457 Mass. 647, 932 N.E.2d 774 (2010).